

## REMARKS

The drawing shows on the right side a spring element 11 for the conveyor or transport duct 14 mounted directly on the frame structure 4, and the spring element without reference character just to the left is seen to be mounted the same.

The title and claims are amended above to avoid the objections thereto. These amendments to the claims, and the others, e.g., for conveyor or transport ducts as variably used originally, are not in response to a statutory requirement or narrowing, whereby no Festo-like limitations should arise.

The rejection of the claims under 35 USC 103 for obviousness from the Morinaka and Howard patents asserts that the Morinaka patent discloses the claimed invention except for its spring characterization thought an art recognized alternative from Col. 3, lines 25-36, apparently of the Howard patent.

As the Action correctly recognizes, the vibrator springs 9 of the Morinaka patent are mounted on a base 7 supported by springs 6a,b from its frame, which is the opposite of the claimed invention. As boldly set out in MPEP 2141.02:

**PRIOR ART MUST BE CONSIDERED IN ITS  
ENTIRETY, INCLUDING DISCLOSURES THAT  
TEACH AWAY FROM THE CLAIMS**

Since the entirety of the Morinaka patent teaches the opposite of the claimed invention, the claimed invention cannot be obvious from it alone or in combination with other art.

In order to combine art, there must be some motivation. There are only three possible sources of such motivation: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. In this case, the teaching in the prior art Morinaka patent is the opposite of that claimed and, therefore, the teachings of the

prior art cannot motivate the claimed invention even if a feature thereof is known elsewhere in Howard patent art.

In order for one to defeat a meritorious patent it is not enough to pick out isolated features in the earlier prior art patents, combine them in one particular way with hindsight acquired only from the patent under attack, and then say that no invention would have been involved in selecting those particular features and combining them in the particular way in which the patentee did. Eversharp, Inc., et al. v. Fisher Pen Co., Inc., et al. 132 USPQ 423 (N.D. Ill 1961).

The Howard patent does not motivate substitution of its frame-mounted spring 34, because nothing is said about a solution to the problems of a vibrated part on precise weighing. Its vibrated part 14 only delivers a "uniform stream" as described precisely where (col. 3, line 28) the Action asserts the necessary motivational teaching toward the claimed invention. As precise in the patent and Action, therefore, the necessary motivational teaching toward the weighing problem solved by the claimed invention is not there.

Weighing machines of the type claimed portion bulk material into individual packages that, often by law, must contain at least the amount indicated on the packages, and in the interests of the maker, not much more. Therefore, it is important that the vibration of the conveyors does not vibrate the scales, because if the scales are also vibrated, this would result in noisy and imprecise weighing measurements.

In prior art systems this problem has been solved by employing dampers in the form of spring or rubber suspensions between the counterweight for the vibrated conveyors and the frame structure of the machine. Just such a prior art system with damper springs 6a,b is described in the Morinaka patent.

The invention according to the present application solves problems of the prior art system by using the frame structure of the weighting machine, being much heavier than the central linear conveyors, as counterweight, by mounting the linear conveyors directly to the frame structure. Thereby a number of advantages are obtained which are already mentioned in the application such as:

- a considerable amount of the components are removed that are, in conventional combination weights, used for providing counterweight for the vibrating linear conveyors;
- the removed components include the conventionally employed dampers in the form of rubber suspensions, etc. that have so far been provided between the linear conveyors and the frame structure of the machine. The rubber suspension is a moving part and requires maintenance which is both expensive and time consuming; and
- the number of faces and hiding places underneath the linear weights where material fragments may deposit or wedge firmly is considerably reduced thereby considerably facilitating cleaning of the combination weight.

The Howard patent only describes a material feeding conveyor. Its vibration means are also mounted to the machine, but nothing is said about a solution to the problem of preciseness of weighing faced by the claimed invention. Only the invention solves the problems related to use of dampers being:

- ensuring precise weighing when measuring portions to ensure they are close to a reference weight; and
- hygiene issues as described in the introduction to the application.

Reconsideration and allowance are, therefore, requested.

Respectfully submitted,



---

William R. Evans  
c/o Ladas & Parry LLP  
26 West 61<sup>st</sup> Street  
New York, New York 10023  
Reg. No. 25858  
Tel. No. (212) 708-1930